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SEP 15 2006

REMARKS

Claims 1-35 are pending herein.

I. The anticipation rejections based on Nerad (US 2005/0018026).

The USPTO respectfully rejects Claim 1 under 35 U.S.C. § 102(e) as being anticipated by Nerad.

A. Nerad is not prior art because the properly claimed foreign priority date precedes the effective date of Nerad.

As the USPTO previously respectfully noted on page 1 of the Office Action dated February 2, 2006, certified copies of all foreign priority documents were received by the USPTO. Priority applications JP 2002-249637 and JP 2002-359316 were filed on December 2, 2002 and December 11, 2002, respectively.

The effective date of the Nerad reference is July 21, 2003, and thus is after the properly claimed foreign priority dates of the present application. Therefore, it is respectfully asserted that Nerad is not a proper prior art reference, and the rejection to claim 1 has been respectfully overcome (see MPEP 2136.05).

II. The claim rejection based on double patenting.

The USPTO respectfully provisionally rejects Claim 1 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1 and 4 of co-pending Application No. 2004/0080598 in view of Nerad (US 2005/0018026).

Claim 1 claims in relevant part:

"a recording head of ink jet type for jetting ink from a plurality of jet openings . . . "(emphasis added)

As the USPTO respectfully notes on page 3 of the present Office Action, the co-pending application does not teach or suggest a recording head for jetting ink from a plurality of jet openings, as claimed in claim 1. The USPTO respectfully looks to Nerad to attempt to

overcome this deficiency.

However, as respectfully noted above, Nerad is not a proper prior art reference. Thus, Nerad cannot be used to overcome the noted deficiency in the co-pending application. Therefore, it is respectfully asserted that the provisional rejection to claim 1 has been overcome.

Alternatively, since neither the present claims nor the claims of the co-pending application have been patented, it is respectfully not possible that double patenting can be determined (nothing is patented and there is no way to compare the final claims until one of the cases has been patented and the other claims are otherwise allowable). Thus, the Applicants respectfully request that the USPTO withdraw the provisional obviousness double patenting rejections until the claims are in final form and otherwise in condition for allowance, and also until the case over which double patenting is alleged is allowed.

III. Conclusion.

Reconsideration and allowance of all of the claims is respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Please contact the undersigned for any reason. Applicants seek to cooperate with the Examiner including via telephone if convenient for the Examiner.

Respectfully submitted,

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